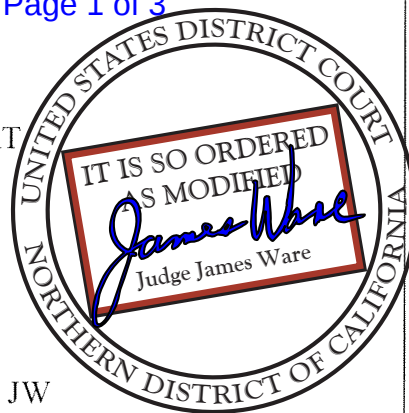


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT
SAN JOSE DIVISION



FEDERAL INSURANCE COMPANY, an
Indiana corporation,

Plaintiff,

vs.

ST. PAUL FIRE AND MARINE
INSURANCE COMPANY, a Minnesota
corporation,

Defendant.

Case No. C 05 01878 JW

**STIPULATION AND [PROPOSED]
ORDER EXTENDING DEADLINE TO
FILE JOINT PRELIMINARY PRETRIAL
STATEMENT AND CONTINUING
PRELIMINARY PRETRIAL
CONFERENCE**

ST. PAUL FIRE AND MARINE
INSURANCE COMPANY, a Minnesota
corporation,

Counter-Claim Plaintiff,

vs.

FEDERAL INSURANCE COMPANY, an
Indiana corporation, and NATIONAL
UNION FIRE INSURANCE COMPANY
OF PITTSBURGH, PA, a Pennsylvania
corporation

Counter-Claim Defendants.

Pursuant to Civil Local Rules 6-2 and 7-12, the Parties submit the following Stipulation and [Proposed] Order Extending Deadline to File Joint Preliminary Pretrial Statement and Continuing Preliminary Pretrial Conference, to allow the parties time to mediate this case on May 19, 2008, before Hon. Dickran Tevrizian (Ret.) of JAMS:

WHEREAS:

1. This action was filed by Federal Insurance Company ("Federal") against St. Paul Fire and Marine Insurance Company ("St. Paul") on May 6, 2005. On June 24, 2005, St. Paul filed a counterclaim against Federal and National Union Fire Insurance Company of Pittsburgh, PA ("National Union").

STIPULATION AND [PROPOSED] ORDER
Case No. C 05 01878 JW

1 2. A Scheduling Order was issued on July 12, 2006, essentially adopting the schedule
2 in the parties' Joint Case Management Statement and Proposed Order.

3 3. On January 2, 2008, the Court entered a Stipulation and Order to Extend Certain
4 Pretrial Dates and the Date of the Preliminary Pretrial and Trial Setting Conference ("1/2/08
5 Order"). The 1/2/08 Order set a deadline of April 4, 2008, for the parties to file a Joint
6 Preliminary Pretrial Statement and scheduled a Preliminary Pretrial Conference for April 14,
7 2008.

8 4. On January 25, 2008, the Court filed a docket entry that again set a deadline of
9 April 4, 2008, for the parties to file a Joint Preliminary Pretrial Statement and scheduled a
10 Preliminary Pretrial Conference for April 14, 2008.

11 5. On January 25, 2008, the Court entered its Order Granting Plaintiff's Motion for
12 Partial Summary Judgment; Denying Defendant's Motion for Partial Summary Judgment
13 ("1/25/08 Order"). See Docket Item No. 88. On February 22, 2008, the Court entered its Order
14 Denying Federal's Motion for Leave to File Motion for Reconsideration ("2/22/08 Order"). See
15 Docket Item No. 101. On February 27, 2008, the Court entered its Order granting Federal's
16 Motion to Withdraw its Second Motion for Partial Summary Judgment ("2/27/08 Order"). See
17 Docket Item No. 105.

18 6. Since the issuance of the 1/25/08 Order, the 2/22/08 Order, and the 2/27/08 Order,
19 the parties have been considering their options and discussing potential means to resolve this
20 case.

21 7. The parties have agreed to engage in a mediation of this case. They have selected
22 Hon. Dickran Tevrizian (Ret.) of JAMS to serve as mediator, and they have reserved the date of
23 May 19, 2008, with Judge Tevrizian.

24 8. The parties agree that it would be the best use of party and judicial resources to
25 allow the parties time to mediate this case and to extend the deadline to file the Joint Preliminary
26 Pretrial Statement from April 4, 2008, to June 6, 2008, and to continue the Preliminary Pretrial
27 Conference from April 14, 2008, to June 16, 2008.

28

1 **NOW, THEREFORE, IT IS HEREBY STIPULATED** that the deadline to file the Joint
2 Preliminary Pretrial Statement is extended from April 4, 2008, to June 6, 2008, and the
3 Preliminary Pretrial Conference is continued from April 14, 2008, to June 16, 2008.

4 **IT IS SO STIPULATED.**

5
6 Dated: April 1, 2008

NEWTON REMMEL

7 By: Stephen L. Newton / *by permission*

Stephen L. Newton

8 Gabriel G. Gregg

9 Attorneys for Plaintiff and Counterclaim
Defendant

FEDERAL INSURANCE COMPANY

10
11 Dated: April 1, 2007

SQUIRE, SANDERS & DEMPSEY LLP

12 By: Marc J. Shrake

13 Marc J. Shrake

14 Attorneys for Defendant and
Counterclaimant

15 ST. PAUL FIRE AND MARINE
INSURANCE COMPANY

16
17 Dated: April 1, 2007

BARGER & WOLEN LLP

18 By: Thomas Beer / *by permission*

19 Thomas Beer

20 Attorneys for Counterclaim Defendant

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA

21 ***** ORDER *****

22 The Preliminary Pretrial Conference is continued from April 14, 2008 to **June 16, 2008 at 11**
23 **a.m.** The parties shall file a Joint Preliminary Pretrial Statement on or before **June 6, 2008**. This
is the parties' final continuance.

24 Dated: _____ April 9, 2008

25 James Ware
26 The Honorable James Ware
27 United States District Judge
28